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PART II — Section 2

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इस भाग में एच्सी पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on dated 24th March, 2005:—

BILL No. 6 OF 2005

*A Bills to provide for constitution of special courts for women and for
matters connected therewith.*

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India
as follows:—

1. (1) This Act may be called the Special Courts for Women Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'appropriate Government' means the State Government in case of a State and the Central Government in other cases;

(b) 'employer' means,—

(i) in relation to an establishment which is under the control of the appropriate Government, a person or an authority appointed by the appropriate Government, for the supervision and control of employees or where no person is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the Chief Executive Officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the control on the affairs of the establishment or is entrusted to any other person, whether called a manager, managing director, managing agent, supervisor or by any other name, who has been entrusted with the affairs of the establishment, such person;

(c) 'offence' means any offence committed against a woman including rape, criminal assault, mental injury and sexual harassment at work place;

(d) 'prescribed' means prescribed by rules made under the Act;

(e) 'sexual harassment' means and includes,—

(i) harassing any employee by virtue of her being a female;

(ii) indecent representation of women with a view to annoy or irritate a female employee and which causes mental agony to the employee;

(iii) detaining a female employee before or after normal working hours in the absence of other employees and when there is no work to be performed by that female employee, with a view to outrage her modesty or molest her;

(iv) paying less wages or allocating more work to a female employee, than her male counterparts;

(v) refusing to grant leave of absence to a female employee or permission to her during her pregnancy/termination of pregnancy or other periods when she would not be physically or biologically fit to perform her work to her fullest capacity;

(vi) passing of obscene or lewd comments against a female employee;

(vii) making a female employee attend office on holidays or come to such place where her presence is not required in connection with her employment;

(viii) compelling a female employee to attend a party/dance or any musical programme or to dine with her employer or any other person, if the female employee is not willing to do so;

(ix) refusing to allow rest to female employees as provided under the provisions of any other law for the time being in force;

(x) compelling a female employee to dress in a way which would present her in an obscene manner;

(xi) making a female employee to perform such a job or duty which would denigrate her personality;

(xii) fondling or touching a female employee in the guise of teaching her or helping in her job;

(xiii) gestures or actions either by word or by written material intending to insult or cause mental injury to a female employee;

(xiv) showing pornography or other obscene literature to a female employee;

(xv) sexual advances with a view to assault or molest or outrage the modesty of a female employee;

(xvi) making female employee perform such duties which she is not able to perform with her physical condition;

(xvii) offering unwanted suggestions or advise about physical appearances or on other matters to a female employee with a view to hurt her;

(xviii) doing of any other act or causing any act by using position as an employer with a view to exploiting a female employee.

3. (1) The appropriate Government shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities or offences committed against women.

Establishment
of special
courts for
women.

(2) Every special court shall consist of a Chief Judge and such number of other Judges as the appropriate Government may deem fit.

4. (1) A person shall not be qualified for appointment as the Chief Judge, unless he:—

(a) is, or has been, a district Judge; or

(b) has, for atleast two years, held the office of the Judge of the special court; and has, for atleast five years, been associated with women's cause.

(2) A person shall not be qualified for appointment as a judge, unless he:—

(a) is, or has been, a judicial magistrate; or

(b) has, for a period of not less than five years, been practising law, and has, for atleast five years, been associated with women's cause.

(3) Every Chief Judge of a special court in a Union territory shall be appointed by the President.

(4) Every Chief Judge of a special court in a State shall be appointed by the Governor of the State concerned.

(5) Every other Judge of a special court shall be appointed by the appropriate Government.

(6) Atleast half of the total number of posts of Chief Judges and other Judges of special courts shall be reserved for women.

5. (1) In the event of occurrence of any vacancy in the office of the Chief Judge of a special court by reason of his death, resignation or otherwise, the senior most judge of that court shall act as the Chief Judge until a new Chief Judge, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chief Judge is unable to discharge his functions owing to his absence from duty due to any reason, the senior most judge of that special court shall discharge the functions of the Chief Judge until the Chief Judge resumes his duties.

6. (1) Every Chief Judge and other Judges shall hold office for a period of five years from the date on which he enters upon his office or until he attains,—

Qualification
for
appointment as
Chief Judge
and other
Judges of
special court.

Senior-most
Judge to act as
a Chief Judge
or to discharge
his functions in
certain
circumstances.

Term of office.

- (a) in the case of the Chief Judge, the age of sixty five years, and
 (b) in the case of any other Judge, the age of sixty years whichever is earlier.

Resignation.

7. Every Chief Judge or a Judge may, by notice in writing under his hand addressed to the President in case he is a Chief Judge or a Judge of a special court in a Union territory or to the Governor, in case he is a Chief Judge or a Judge of a special court in a State, resign from his office:

Provided that the Chief Judge or any other Judge shall, unless he is permitted by the President or the Governor, as the case may be, to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

Salary, allowances and other conditions of service of the Chief Judge and other Judges.

Financial and other powers of the Chief Judge.

Staff of the special court.

Jurisdiction, power and authority of special courts.

Powers of special courts.

Exclusion of jurisdiction of cases of special court except the High Court concerned and Supreme Court.

Transfer of pending cases.

8. The salaries and allowances payable to and other terms and conditions of service including pension, gratuity and other retirement benefits of the Chief Judge or a Judge of a special court shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chief Judge or a Judge of a special court shall be varied to his disadvantage after his appointment.

9. Every Chief Judge shall exercise such financial and administrative powers over the special court as may be vested in him in such manner as may be prescribed.

10. The appropriate Government shall determine the nature and categories of the officers and other employees required to assist a special court in the discharge of its functions.

11. Save as otherwise expressly provided in this Act, every special court shall exercise all the jurisdiction, powers and authority exercisable immediately before that day by all courts except the concerned High Court and the Supreme Court in relation to all matters of offences or atrocities committed against women under the Indian Penal Code, 1860 or any other law for the time being in force relating to women.

45 of 1860

12. Every special court constituted under this Act shall have the same powers to hold any inquiry as are vested in a civil court under the Code of Civil Procedure, 1908 and in a criminal court under the Code of Criminal Procedure, 1973.

5 of 1908

2 of 1974

13. On the date of coming into force of this Act, the jurisdiction, powers and authority in relation to any offences or crimes or atrocities committed against women, shall be exercisable by a special court and no other court except the High Court concerned and the Supreme Court shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such offences or crimes or atrocities committed against women.

14. Every suit or other proceeding pending before any other court or any authority immediately before the date of coming into force of this Act, being a suit or proceeding the cause of action wherein it is based, is such that it would have been if it had arisen after such constitution, within the jurisdiction of a such special court, shall stand transferred on that date to such special court;

Provided that nothing contained in this section shall apply to a suit or other proceedings pending in a High Court or the Supreme Court.

15. The appropriate Government shall make necessary arrangements and provisions for free legal aid to women for meeting the cost of litigation in special courts.

Free legal aid to women.

16. Every case in a special court shall be heard on daily basis and disposed of as early as possible and in any case not later than six months from the date of filing of the suit in the court.

Disposal of cases by special courts.

17. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

In our society, atrocities against women are increasing day by day. Cases of atrocities against women are piling up in courts. Courts take a long time in disposing of the cases. Sexual harassment takes places at work places. By the time the courts give their judgement, the life of the women has become miserable. Ordinary courts take unduly long time for deciding the cases. Therefore, the special courts should be set up to exclusively deal with cases against women expeditiously.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 18, 2004.

D. PURANDESWARI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every State Government and Union territory administration shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities committed against women. Clause 8 provides for payment of salaries and allowances to the Chief Judge and other Judges. Clause 10 provides for appointment and provision of officers and staff required for special courts. Clause 15 provides for free legal aid to women. The expenditure in respect of special courts in respect of Union territories shall be met out of the Consolidated Fund of India and the expenditure in respect of special courts in States will be met out of Consolidated Funds of the respective States.

It is likely that an amount of rupees one thousand crore will be involved for setting up special courts in Union territories and by way of grants to States per annum.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 9 OF 2005

A Bill to provide for a comprehensive policy for the development of the youth in the country.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Youth Welfare Act, 2005.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) 'appropriate Government' means in the case of a State, the State Government and in the case of a Union Territory, the Union Government;
- (b) 'Youth' means all persons between twelve and thirty years of age; and
- (c) 'Youth Organisation' means an organisation of youth which provides for universal membership, without any discrimination on the basis of race, religion, language, caste, creed or sex and the Constitution of which provides for its democratic functioning in respective States or Union territories, as the case may be.

Compulsory
and free
educational
facilities.

3. The appropriate Government shall provide to every eligible youth—

- (a) compulsory and free education including technical education;
- (b) materials like books, stationery, uniform, etc. free of cost;
- (c) free hostel facilities;
- (d) scholarships to deserving students;
- (e) free transport facilities;
- (f) pocket allowance at the rate of rupees one hundred to rupees one hundred fifty per month according to the age of the youth, as may be prescribed; and
- (g) free access to all libraries and technical institutions.

Sports
facilities to
the youth.

4. The appropriate Government shall provide,—

- (a) training in sports to every eligible youth and facilities for participation in sports activities both inside and outside the country;
- (b) representation to youth organisations in sports associations; and
- (c) other facilities for the welfare of youth, who represent the country in sports, throughout his life time.

Provision of
nutritious
meals in
schools, etc.

5. The appropriate Government shall provide nutritious meals free of cost to all the students in schools, colleges, universities, hostels and technical institutions.

Medical care
to the youth.

6. The appropriate Government shall provide medical and health care to the youth free of cost.

Training of
the youth in
trade
vocation, etc.

7. The appropriate Government shall evolve a scheme under which every eligible youth shall be imparted training in modern apprenticeship trades, vocations, etc. in factories and vocational institutions.

Appointment
of expert
Committees.

8. The appropriate Government shall appoint an expert Committee in every district consisting of eminent educationists, psychologists to recommend the type of education or training in any vocation that is to be imparted to a youth of the district after he or she has passed the tenth class examination.

Military
training to
the youth.

9. The Central Government shall provide military training to all the able bodied youth and those who successfully complete the training shall be given preference in employment in defence services.

Provision of
employment.

10. The appropriate Government shall provide employment to the youth after their education/training or unemployment allowance, as may be prescribed, by the Central Government, in lieu thereof, till they are provided employment.

Power to
make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Even after five decades of independence, no clear-cut youth policy has been laid down in our country so far. The education should be the right of every youth and not a privilege of a few and employment should be guaranteed to them. The youth should be linked directly with the production process. The disparities between the rural and urban youth should be eliminated gradually. The youth today is also facing serious health problems, absolute inadequacy in sports and cultural facilities. The youth belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes are still reeling under poverty. There is no proper planning for comprehensive development of the youth and proper utilisation of their energies and education. A comprehensive youth policy for their all round development is, therefore, absolutely necessary.

Hence this Bill.

NEW DELHI;

KRISHNA TIRATH

December 6, 2004.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide compulsory and free education and also supply of materials like books, stationery, uniform, etc., free of cost and pocket allowance to all the youth. It also provides for free hostel and transport facilities and scholarships to youth. Clause 4 provides that the appropriate Government shall provide facilities to youth for their participation in sports activities. Clause 5 provides that the appropriate Government shall provide nutritious diet free of cost to all the students in schools, colleges, universities and hostels. Clause 6 provides for medical and health care to all the youth by the appropriate Government. Clause 7 provides that the appropriate Government shall evolve a scheme under which the youth will be given training in factories and vocational institutions. Clause 8 provides for appointment of expert Committees to recommend the type of education that is to be imparted to the youth. Clause 9 provides for military training to able bodied youth. Clause 10 provides that the appropriate Government shall be responsible for providing employment to all the youth or unemployment allowance, as may be prescribed, till they are provided with employment.

The Bill, if enacted, would involve expenditure from the Consolidated Fund of India in respect of the Union Territories. The State Governments will incur the expenditure from their respective Consolidated Funds in respect of their States supplemented by assistance from the Central Government. An annual recurring expenditure of about rupees two hundred and fifty crore is likely to be incurred, from the Consolidated Fund of India.

A non-recurring expenditure of about rupees four crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 10 OF 2005

A Bill to provide for comprehensive and compulsory insurance of Safai Karamcharis against any mishap connected with their work to give them economic protection, safeguard their interests and for matters connected therewith.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Safai Karamcharis Insurance Scheme Act, 2005.

(2) It extends to whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Short title,
extent and
commencement.

Definitions.

(a) "appropriate Government" means the Central Government or the State Government, as the case may be;

(b) "mishap" means any physical injury, disability, handicap or any disease caused to a Safai Karamchari while performing his duties and which, for such karamchari constitutes or results in a substantial handicap, whether temporarily or permanently,

to his normal daily activities and to employment;

(c) "prescribed" means prescribed by rules made under this Act.

(d) "Safai Karamchari" means any person engaged in or employed for manually carrying human excreta or any sanitation work and includes persons engaged in cleaning of animal hides; and

(e) "Scheme" means the Safai Karamcharis Insurance Scheme framed under section 3.

Safai
Karamcharis
Insurance
Scheme.

3. (1) The Central Government shall, in consultation with the State Governments, frame a Scheme to be known as the Safai Karamcharis Insurance Scheme, for comprehensive and compulsory insurance of Safai Karamcharis against any mishap.

(2) The Scheme shall, among other things, provide for—

(a) the principles and conditions governing the insurance of Safai Karamcharis under the scheme;

(b) part of insurance amount to be paid immediately to the Safai Karamcharis in different mishaps caused to them due to hazards involved in the job;

(c) nominal rate of premium to be paid by the Safai Karamcharis;

(d) the extent of insurance cover;

(e) the manner of making claims by Safai Karamcharis; and

(f) any other matter which the Central Government may deem necessary.

Administration
of the Scheme
by the Central
Government.

4. The Central Government shall, in consultation with the State Governments administer the Scheme.

Establishment
of Safai
Karamcharis
Insurance
Fund.

5. (1) The Central Government shall, in consultation with the State Governments and by notification in the Official Gazette, establish a fund to be known as Safai Karamcharis Insurance Fund which shall consist of—

(a) premium amount received from Safai Karamcharis for Insurance under the Scheme;

(b) grants made by the Central Government and the State Governments, in such ratio, as may be agreed between them;

(c) any monies received as contribution or donations from any individual or organisation in India or abroad; and

(d) any income received from investment of money out of the Fund.

Constitution
of Advisory
Committees.

(2) The initial capital of the Safai Karamcharis Insurance Fund shall be rupees five hundred crore of which rupees four hundred crore shall be contributed by the Central Government and rupees one hundred crore shall be contributed by the State Governments in the proportion of number of Safai Karamcharis working in the respective States.

6. (1) The appropriate Government shall, by notification in the Official Gazette, constitute an Advisory Committee in every district, falling within its jurisdiction, to assess the claims made by the Safai Karamcharis due to any mishap.

(2) Every Advisory Committee shall consist of a Chairperson, to be appointed by the appropriate Government, and such other members and staff, as may be prescribed.

(3) The terms and conditions as to the qualifications, salary and allowances, etc. of the

Chairperson, members and staff of the Advisory Committees shall be such as may be prescribed.

(4) While assessing the claims referred to in sub-section (1), every Advisory Committee shall inform the representatives of the Safai Karamcharis of the area, where such mishap has occurred, about the procedure followed by it in assessing such claims.

7. It shall be the responsibility of the appropriate Government to pay insurance amount or such part of insurance amount, as may be recommended by the Advisory Committee, referred to in section 6, to a Safai Karamchari for any mishap caused to him during the course of performance of his duties, out of the Safai Karamcharis Insurance Fund.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Payment of
Insurance
amount by
the
appropriate
Government.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

Several outmoded and ancient traditions and beliefs are prevalent in our country. The people, instead of doing their own work, depend on Safai Karamcharis for getting the cleaning work done. These Safai Karamcharis have not been provided with minimum wages and social and economic security till today. The wages of Safai Karamcharis are fixed on many disadvantageous criteria. Consequently, Safai Karamcharis are facing starvation.

The Safai Karamcharis always live in the danger of inhaling poisonous gases while clearing blocked sewer lines and carrying poisonous waste matter. They earn their livelihood from cleaning work, but they rarely get their meagre wages in time. As a result, they are forced to beg for food.

Life Insurance Corporation and other insurance companies insure only those Safai Karamcharis who are working in Government or Semi-Government organisations and can afford higher premium. But majority of Safai Karamcharis are working in unorganized sector on daily wages/part time basis and have no regular income.

In the circumstances, there is an urgent need to frame a comprehensive and compulsory insurance scheme for Safai Karamcharis especially for those who are in unorganized sector. Such an insurance scheme will go a long way in affording them social and economic protection.

Hence this Bill.

NEW DELHI;
December 6, 2004.

KRISHNATIRATH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall, in consultation with the State Governments, frame a scheme to be known as the Safai Karamcharis Insurance Scheme. Clause 4 provides that the Central Government shall administer the scheme. Clause 5 provides for establishment of Safai Karamcharis Insurance Fund by the Central Government to which the Central Government shall contribute rupees four hundred crore to form initial capital of the fund and shall also make grants to the fund. Clause 6 provides for the constitution of Advisory Committees in every district by the appropriate Government. As far as constitution of these Committees in the States is concerned, the expenditure shall be met out of the Consolidated Fund of respective States. However, in the case of constitution of Advisory Committees in the Union territories, the expenditure shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees four hundred crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 16 OF 2005*A Bill further to amend the Indian Penal Code, 1860*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2005.

Short title and commencement.

(2) It shall come into force immediately.

2. In section 304 of the Indian Penal Code (hereinafter referred to as the Code), the following proviso shall be added at the end, namely:—

Amendment of section 304.

“Provided that if the victim is a woman, the person committing such homicide shall be punished with imprisonment for life or with rigorous imprisonment for a term which may extend to twelve years and shall also be liable to fine.”

Amendment
of section
304B.

3. In section 304B of the Code, in sub-section (2), for the words "shall not be less than seven years", the words "shall not be less than ten years", shall be substituted.

Amendment
of section
312.

4. In section 312 of the Code, before the Explanation, the following proviso shall be inserted, namely:—

"Provided that in the case of miscarriage of a female foetus after sex determination test, the person causing such miscarriage shall be punished with rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine.".

Amendment
of section
313.

5. In section 313 of the Code, the following proviso shall be added at the end, namely:—

"Provided that in case of miscarriage of a female foetus committed after pre-natal sex determination test, the person causing such miscarriage shall be punished with imprisonment for a term which may extend to twelve years and shall also be liable to fine.".

Amendment
of section
314.

6. In section 314 of the Code,—

(i) for the words "of either description", the words "for life or with rigorous imprisonment" shall be substituted;

(ii) before the Explanation, the following proviso shall be inserted, namely:—

"Provided that if the miscarriage is caused after pre-natal determination of sex of the foetus, knowing it to be a female foetus, the person causing such miscarriage shall be punished with rigorous imprisonment for life or with rigorous imprisonment for a term which may extend to twelve years and shall also be liable to fine.".

Amendment
of section
315.

7. In section 315 of the Code, the following proviso shall be added, at the end, namely:—

"Provided that if such act is done after pre-natal sex determination test, suggesting a female foetus, the person doing such act shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.".

Amendment
of section
316.

8. In section 316 of the Code, before the illustration, the following proviso shall be inserted, namely:—

"Provided that if such act is done after a sex determination test, suggesting that the quick-unborn child is a female child, the person doing such act shall be punished with rigorous imprisonment which may extend to ten years and shall also be liable to fine.".

Amendment
of section
317.

9. In section 317 of the Code, before the Explanation, the following proviso shall be inserted, namely:—

"Provided that in case the child exposed or abandoned is a girl-child, the person doing so shall be punished with rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine.".

Amendment
of section
318.

10. In section 318 of the Code, the following proviso shall be added, at the end, namely:—

"Provided that if the child whose dead body is so disposed of, is a girl-child, the person committing such act shall be punished with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.".

STATEMENT OF OBJECTS AND REASONS

While the swelling population of the country presents a serious problem to the nation, the fast dwindling sex-ratio, that the female population bears to that of males, presents an equally disturbing trend. Male dominated society as it is, much of it is attributable to male preference in Indian families. While abortion as a means for containing family-size has been accepted as legal, abortions in large numbers are carried out to destroy female foetus, after elaborate pre-natal sex determination tests, only to avert female child birth. Such abortions are resorted to, often with the help of quacks, through crude methods, to keep the matters secret, even if it involves a risk to the life of the mother, against medical advice. In certain tribes and classes, girl child is neglected and subjected to discrimination in matters of nutrition, health care, and education, and are exposed and even abandoned.

Even after insertion of section 304B of the Indian Penal Code, to specifically provide for dowry death as a heinous crime, with a minimum period of rigorous imprisonment, rather unusual as it is in criminal jurisprudence, dowry related atrocities and deaths continue unabated.

The over-all impact of all this is evident, and is well reflected in the fast declining sex ratio, which fell from 972 females per thousand males in 1901 to 927 in 1991. The present sex ratio may well be just a little above 900 females per thousand males. There is thus a pressing need for urgent measures to effectively curb and correct the declining sex ratio, by providing sharper teeth to the relevant provisions of the Indian Penal Code.

NEW DELHI;
December 6, 2004.

KRISHNA TIRATH

BILL NO. 30 OF 2005

A Bill to provide for the establishment of a High Court for the State of Tripura.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court of Tripura Act, 2005.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed date" means the date which, the Central Government may, by notification in the Official Gazette, appoint.

(b) "Guwahati High Court" means and includes the existing common High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura.

Establishment
of the High
Court of
Tripura.

3. (1) There shall be established a separate High Court for the State of Tripura to be known as the High Court of Tripura consisting of a Chief Justice and, until President appoints a larger number, of not less than three other judges.

(2) The principal seat of the High Court of Tripura shall be at Agartala.

(3) Notwithstanding anything contained in sub-section (2), the judges and the division courts of the High Court of Tripura may sit at such other place or places in the State of Tripura other than its principal seat as the Chief Justice may, with the approval of the Governor of Tripura, appoint.

4. On and from the appointed date, the High Court of Tripura shall have, in respect of territory of Tripura, all such jurisdiction, powers and authorities as, under the law in force immediately before the appointed date, are exercisable by the Guwahati High Court.

5. (1) On and from the appointed date, the Agartala Bench of Guwahati High Court shall cease to function and is hereby abolished.

(2) Nothing in sub-section (1) shall prejudice or affect the continued operation of any notice served, injunction issued, direction given or proceeding taken before the appointed date by the Agartala Bench of Guwahati High Court abolished by that sub-section.

6. (1) Subject to any rule made or any direction given by the High Court of Tripura in this behalf, any person, who immediately before the appointed date, is an advocate entitled to practice in the Guwahati High Court, shall be entitled to practice as an advocate in the High Court of Tripura.

(2) The right of audience in the High Court of Tripura shall be regulated in accordance with the like principles as immediately before the appointed date, are in force with respect to the right of audience in the Guwahati High Court.

7. Subject to the provisions of this Act, the law in force immediately before the appointed date with respect to practice and procedure in the Guwahati High Court shall, with necessary modifications, apply in relation to the High Court of Tripura.

8. The law in force immediately before the appointed date with respect to the form of writs and other processes used, issued or awarded by the Guwahati High Court shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Tripura till such law is made and forms are prescribed.

9. The law in force immediately before the appointed date with respect to the powers of the Chief Justice, single Judge and Division Courts of the Guwahati High Court with respect to all matters ancillary to the exercise of those powers shall, with necessary modifications, apply in relation to the High Court of Tripura.

10. The law in force immediately before the appointed date relating to appeals to the Supreme Court from the Guwahati High Court and the Judges and division courts thereof shall, with necessary modifications, apply in relation to the High Court of Tripura.

11. (1) Notwithstanding anything contained in any other law for the time being in force, all proceedings instituted from the State of Tripura and pending in the Guwahati High Court either in the Principal seat or in permanent Bench at Agartala immediately before the appointed date shall, from such date, stand transferred to the High Court of Tripura.

(2) Every proceeding transferred under sub-section (1) shall be disposed of by the High Court of Tripura as if such proceeding was entertained by that High Court.

(3) Any order made before the appointed date by the Guwahati High Court shall have effect as if such order is made by the High Court of Tripura.

12. For the purpose of section 11,—

(a) Proceedings shall be deemed to be pending in the court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the cost of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, application for reviews, petitions for revision and petitions for writs; and

(b) References to High Court shall be construed as including references to a Judge or division court thereof, and references to an order made by a court or a judge shall be construed as including references to a sentence, judgement or decree passed or made by that Court or Judge.

Jurisdiction
of the High
Court of
Tripura.

Abolition of
Agartala
Bench of the
Guwahati
High Court.

Special
provision
relating to
advocates.

Practice and
procedure in
the High
Court of
Tripura.

Form of writs
and other
processes.

Powers of
Judges.

Procedure as
to appeals to
Supreme
Court.

Transfer of
proceedings
from the
Guwahati
High Court to
the High
Court of
Tripura.

Interpretation.

Right to appear or act in proceedings to be transferred to the High Court of Tripura.

Savings.

Amendment of North-Eastern Areas (Reorganisation) Act, 1971.

13. Any person who, immediately before the appointed date, is an advocate entitled to practice in the Guwahati High Court and was authorized to appear or to act in any proceedings transferred from the said High Court to the High Court of Tripura under section 11, shall have the right to appear or to act, as the case may be, in the High Court of Tripura in relation to those proceedings.

14. Nothing in this Act shall affect the application to the High Court of Tripura of any provision of the Constitution, and this Act shall have the effect subject to any provision that may be made on or after the appointed date with respect to that High Court by the Tripura Legislative Assembly or any other authority having power to make such provision.

15. In the North-Eastern Area (Reorganisation) Act, 1971,—

- (i) in section 2(d), the words “and Tripura” shall be omitted;
- (ii) in section 28, the words “and Tripura” shall be omitted;
- (iii) in section 29,—
 - (a) the words “and Tripura” shall be omitted; and
 - (b) the words “or the Court of the Judicial Commissioner for Tripura” shall be omitted;
- (iv) in section 31, the words “or Tripura” shall be omitted;
- (v) in section 33, the words “and Tripura” shall be omitted;
- (vi) in section 34,—
 - (a) the words “and Tripura” wherever they occur shall be omitted; and
 - (b) the words “or in the Court of the Judicial Commissioner for Tripura” shall be omitted;
- (vii) in section 40,—
 - (a) the words “and Tripura” shall be omitted; and
 - (b) the words “or by the Court of Judicial Commissioner for Tripura” shall be omitted;
- (viii) in section 42, the words “or in the Court of the Judicial Commissioner for Tripura” shall be omitted;
- (ix) in section 80,—
 - (a) the words “or Tripura” shall be omitted; and
 - (b) the words “or the Court of the Judicial Commissioner for Tripura” shall be omitted; and
- (x) in the Tenth Schedule, the words “ and Tripura” and be omitted.

STATEMENT OF OBJECTS AND REASONS

At present, there is a permanent Bench of the Guwahati High Court at Agartala with the Strength of 3 (three) Judges, but very often only one judge remains at Agartala and judges from the principal seat and other outlying Benches of the Guwahati High Court are deputed time to time for holding Division Bench or Circuit.

Though a permanent Bench of the Guwahati High Court has been established in Tripura, the people do not receive the services of a permanent Bench throughout the year. That apart, the means of travel and communication linking Tripura with the principal seat of High Court at Guwahati is inadequate to facilitate swift movement and communication. The people of this State face much hardship in instituting, prosecuting and defending their cases in case of urgency at the principal seat of the High Court is located at Guwahati. The cost of travel to the principal seat is not within the means of the common man. The people of the State suffer from economic and other disability and as such they do not have equal opportunity of securing justice from the apex judicial institution of the State.

Government of India in principle and on justification accepted that establishment of the separate High Court of Tripura is a legal necessity for honouring the aspiration of the people of this frontier State and such commitment deserves to be implemented in proper spirit and perspective.

The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
August 18, 2004.

KHAGEN DAS

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117(1) AND (3) OF THE CONSTITUTION

[Copy of letter No. K-15019/5/2004-US-I, dated 8 February, 2005 from Shri H.R. Bhardwaj, Minister of Law and Justice to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the High Court of Tripura Bill, 2005 by Shri Khagen Das, M.P., recommends under clauses (1) and (3) of article 117 of the Constitution, the introduction and consideration, respectively, of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

The Bill provides for the establishment of a High Court for the State of Tripura. The Bill, if enacted, is likely to involve a recurring expenditure of about rupees three lakh from the Consolidated Fund of India in respect of payment of pension to retired judges of the High Court.

No non-recurring expenditure is likely to be involved.

BILL NO. 42 OF 2005

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2005.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1951.

2. In section 8 of the Representation of the People Act, 1951, after sub-section (1), the following sub-section shall be inserted:

Amendment
of section 8.

"(1A). A person accused of an offence punishable under sections 302 (punishment for murder), 307 (offence of attempt to murder), section 392 (punishment for robbery), section 393 (punishment for attempt to commit robbery), section 394 (voluntarily causing hurt in committing robbery), section 395 (punishment for dacoity), section 396 (punishment for dacoity with murder) and section 397 (robbery, or dacoity, with attempt to cause death or grievous hurt) of the Indian Penal Code, 1860, and denied bail shall be disqualified till such date as he is acquitted of that offence."

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

The entry of persons having criminal background in the representative bodies has become a matter of deep public concern. They get elected to the representative institutions with huge public mandate through their terror tactics, money and muscle power and even by misleading common voters. It has been expressed in all quarters to ban their entry into these institutions. There is a need to expand the ambit of offences enumerated in the Representation of the People Act for the purpose of disqualification from membership of Parliament and State Legislatures. This will definitely check the entry of the persons into representative bodies with criminal background such as those accused of murders, dacoity and kidnapping.

Hence this Bill.

NEW DELHI,
February 21, 2005.

MOHAN SINGH.

BILL NO. 43 OF 2005

A Bill to provide for the creation of a National Commission for Inter-Community Peace and Justice to tackle communal strife in the country and to ensure lasting peace in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Communal Violence (Prevention, Control and Rehabilitation of Victims) Act, 2005.

Short title,
extent and
commencement

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(ii) "Commission" means the National Commission for Inter-Community Peace and Justice; and

(iii) "prescribed" means prescribed by rules made under this Act.

Offences
punishable
under
the Act.

3. (1) Whoever commits the following offences or any of them with the intent to destroy, in whole or in part, any ethnic, racial, religious, linguistic, geographical or caste group on account of ill will or group hatred by:

(i) killing members of any group;

(ii) causing serious bodily or mental harm to the members of any group; and

(iii) destroying properties, dwelling places, places of worship, shops, factories and other means of livelihood and cultural facilities with an intent to cripple the member/members of the group shall be punished with imprisonment which may extend to life imprisonment and shall also be liable to a fine which may extend to rupees five lakh.

(2) Whoever commits the offences mentioned in sub-section (1) for the second time shall be punished with death or life imprisonment.

Punishment
for those
conspiring or
abetting the
offences.

4. Whoever conspires, abets, encourages, aids and organizes the offences mentioned in section 3 shall be punished with imprisonment for a term which may extend to seven years and a fine which may extend to rupees five lakh.

Other
offences
punishable
under the
Act.

5. (1) Whovever malignantly or wantonly promotes or causes to promote enmity between different groups of people on ground of religion, race, caste, place of birth, language or otherwise; commits or causes to commit acts prejudicial to the maintenance of harmony by spoken or written words or by signs or visible presentation or otherwise shall be punishable with imprisonment which may extend to three years and a fine which may extend to rupees two lakh.

(2) whoever organises or causes to organise any exercise, drill , militant, political or other group movement, arms training and similar activities, with the knowledge that the participants in such activity may use or may be trained to indulge in violence or intimidation against a religious, caste, racial, linguistic, cultural, political or geographical group or with the knowledge that such an act is going to create fear or alarm in such a group or groups, shall be punishable with imprisonment which may extend to three years and shall also be liable to fine which may extend to rupees two lakh.

Responsibility
of public
servants.

6. (1) Any public servant who is responsible for maintaining law and order, but fails to control the group/communal violence and/or fails to perform a legally assigned act which results or may result in offences mentioned in section 3 to 5 shall be liable to imprisonment which may extend to two years.

(2) if convicted for the said offence, such public servant shall also be dismissed from public service.

(3) No sanction from any authority shall be required for prosecuting a public servant, if his/her prosecution is recommended by an inquiry commission constituted on the recommendation of the Commission for Inter-Community Peace and Justice set up under section 11 of this Act.

(4) The appropriate Government, in addition to its own power to appoint Commission of inquiry, shall constitute an Inquiry Commission headed by a person not lower than the rank of a judge of a High Court to examine the circumstances of the failure of public servants on law and order duty in every case of group violence where the National Commission for Inter-Community Peace and Justice so recommends.

(5) The Inquiry Commission constituted under sub-section (4) shall complete its inquiry within two months of its constitution and its report shall be made public within one month of its submission.

7. Notwithstanding anything contained in the Representation of the People Act, 1951, any person found guilty of an offence mentioned in sections 3 to 5 shall be disqualified from voting in an election, contesting election to any local or legislative body or holding any office under the Government.

Disqualification
for those
convicted
under the
Act.

8. The appropriate Government shall pay compensation of not less than rupees two lakh in lumpsum to a dependant/dependants of a person killed in any communal violence in any part of the country.

Compensation.

9. If any person killed in a communal violence was the sole earning member of his family, the appropriate Government shall provide suitable employment to at least one eligible and dependent member of the family of the victim within a period of eight months from the occurrence of such violence.

Employment
to dependants.

10. If an injury is caused to a person in the course of a communal violence, the appropriate Government shall pay compensation to the said person as recommended by the National Commission for Inter-Community Peace and Justice.

Compensation
to those
injured.

Explanation. For the purpose of sections 8, 9 and 10 "Dependant" means any of the following relatives of a deceased, namely:—

- (i) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother;
- (ii) if wholly dependant on the earnings of the deceased at the time of his death, a son or a daughter who has attained the age of eighteen years and who is infirm; and
- (iii) if wholly or in part dependant on the earnings of the deceased at the time of his death or injury—
 - (a) a widower,
 - (b) a parent other than a widowed mother,
 - (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter, legitimate or illegitimate or adopted, if married and a minor or if widowed and a minor,
 - (d) a minor brother or an unmarried sister or a widowed sister if a minor,
 - (e) a widowed daughter-in-law,
 - (f) a minor child of a pre-deceased son,
 - (g) a minor child of a pre-deceased daughter where no parent of the child is alive, or
 - (h) a paternal grandparent if no parent is alive.

Explanation. For the purpose of sub-section (ii) and items (f) and (g) of sub-section (iii), references to a son, daughter or child include an adopted son, daughter or child respectively.

11. (1) The Central Government shall establish a National Commission for Inter-Community Peace and Justice consisting of a Chairman and four members.

National
Commission
for Inter-
Community
Peace and
Justice.

(2) The Commission shall be headed by a retired judge of the Supreme Court or a retired Chief Justice of a High Court and the members of the Commission shall be appointed from amongst the following:—

- (i) one senior jurist possessing the qualifications required for becoming a judge of the High Court;
- (ii) one retired officer of the Central Government who has retired from the rank of Secretary to the Central Government;

(iii) one retired police officer who has retired from the rank of Director General of Police; and

(iv) one human rights activist who has at least twenty years of experience of service in the field of Human Rights.

Provided that the members of the Commission shall be nominated by the Central Government after consulting a panel consisting of Chief Justice of India, the Leader of Opposition in the Lok Sabha and the Chairman of National Human Rights Commission.

Powers and functions of the Committee.

12. (1) The Commission may—

(i) inquire, cause to inquire, investigate and cause to investigate any incident of offences mentioned in sections 3 to 5 of this Act.

(ii) call for a report from the District Magistrate/Chief Secretary of the State concerned, on such incidents.

(iii) issue public notice requesting citizens and Non-Governmental Organisations to depose before it in the course of an inquiry.

(iv) use the services of any investigating agency of the State or the Union Government.

(v) supervise investigation and prosecution.

(2) The Commission shall fix responsibility of the public servants for maintaining law and order duty and shall recommend to the appropriate Government for such departmental actions/punishment and/or prosecution of such public servant, as it may deem fit.

(3) The Commission shall invite claims from all persons who are entitled to claim compensation for loss of life, limb, serious injury and/or loss of property and otherwise.

(4) The Commission shall decide the quantum of compensation over and above the sum mentioned in section 8 of this Act as well as the person/persons to whom it shall be paid.

Right of victims to appeal.

13. The victims of communal violence shall have the right to appeal to civil courts against the decision of the Commission in matters of compensation.

Report of the Commission.

14. (1) The Commission shall, in its report, record its views regarding timely response or failure of the political executive of the State in handling the offences mentioned in sections 3 to 5 of this Act.

(2) The report of the Commission shall be made public within two months of the occurrence of the crime.

Commission to call reports from appropriate Government.

15. (1) The Commission on receipt of an information or otherwise, shall call for report from the appropriate Government in cases of tension arising between the groups/classes and shall also suggest appropriate measures for reconciliation and maintenance of peace between the groups and classes.

(2) The correspondence with the appropriate Government may be kept confidential if the Commission so decides.

(3) The Commission shall constitute a Committee of experts to monitor the community/group relations.

Power to make rules.

16. The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Communalism has become a major threat to Indian civil society and polity. We all are aware of the horrible forms of communal riots as well as politics based on communalism haunting the country in the past several years. It has posed a serious challenge to the fundamentals of our Constitution and the rule of law. Even the highest court of the land had to intervene many a times to protect the principle of natural justice.

India has clearly reached a stage where the existing laws have failed to prevent communal violence and politics based on hate. The only way out is to work in right earnestness for the prevention of communal violence rather than dealing with it after it occurs. Any such attempt needs to be based on a national awareness campaign. But in addition, certain short term legal and administrative measures, too, are necessary to nip the communal violence in the bud itself.

That is why it is necessary for Government of India to immediately constitute a full-time commission to monitor and prevent communal and sectarian violence and also a fresh set of laws must be enacted giving judicial teeth to the proposed commission to act for the harmony to act and intervene independently both as a preventive and fire fighting body to deal with the victims of sectarian violence.

The proposed commission should be empowered to initiate legal action against the perpetrators of communal/sectarian violence and should have legal powers to work for the compensation as well as rehabilitation of the communal/sectarian victims.

Hence the Bill.

NEW DELHI;
February 17, 2005

AJIT SINGH,

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for compensation to be paid to next of kins of those killed in communal riots. Clause 9 provides for provision of employment to one member of a family whose sole earning member has been killed in communal violence. Clause 10 provides for compensation to be paid to those injured in incidents of communal violence. Clause 11 provides for the creation of a National Commission for Inter-Community Peace and Justice. Clause 12 provides that Commission shall fix the quantum of compensation to be paid to the victims of communal riots. Clause 15 provides for the constitution of a committee of experts to monitor inter-community relations. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is, likely to involve an annual recurring expenditure of about rupees twenty crore and a non-recurring expenditure of about rupees fifty crore.

G.C. MALHOTRA,
Secretary General.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The matters, in respect of which rules may be made are matters of procedure and detail. The delegation of legislative powers, therefore, is of a normal character.